

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANK FARRO, JR.,

Plaintiff,

v.

AMERAPLAN,
THE ROBBINS GROUP AND REGENCY
EMPLOYEE BENEFITS, and
THE COUNCIL ON AGING, INC.,

Defendants.

Case No. 4:19-cv-13311
District Judge Stephanie Dawkins
Davis
Magistrate Judge Anthony P. Patti

ORDER GRANTING
PLAINTIFF'S MOTION FOR ALTERNATE SERVICE (ECF No. 13)

On November 11, 2019, Plaintiff filed a complaint, which alleges that Defendants have breached the employee welfare benefits plan. (*See* ECF No. 1, PageID.8-12.) On November 14, 2019, the Clerk's Office issued a summons for each of the three Defendants. (ECF No. 2.) Thus, absent an order stating otherwise, Plaintiff had until mid-February 2020 to effect service upon Defendants. Fed. R. Civ. P. 4(m).

In December 2019, two Defendants – The Robbins Group & Regency Employee Benefits and The Council on Aging, Inc. – appeared via counsel. (ECF Nos. 6-7.) To date, Defendant AmeraPlan has not appeared.

Currently before the Court is Plaintiff's February 4, 2020 motion for alternate service, wherein Plaintiff requests that the Court enter an order requiring AmeraPlan's resident agent to accept service. (ECF No. 13, PageID.50.) Plaintiff's motion appends evidence of his attempts to serve AmeraPlan. (*Id.*, PageID.53, 55, 57.) It also appends two Michigan Department of Insurance and Financial Services (DIFS) printouts, one which lists AmeraPlan, Inc.'s address (12200 E. 13 Mile Rd., Ste 120, Warren, MI 48093) and contact person (J. M. Burghardt) and another which lists ClaimChoice, L.L.C.'s address (P.O. Box 362, Royal Oak, MI 48068) and contact person (Philip Burghardt). (*Id.*, PageID.59, 60.)¹ The significance of ClaimChoice appears to be Plaintiff's process server's representation that the summons was not accepted on Thursday, January 16, 2020, because "they are Claim Choice now, not Ameraplan." (ECF No. 13, PageID.57.)²

Judge Davis referred this motion to me for hearing and determination. On April 22, 2020, I entered an order requiring AmeraPlan to show cause in writing no later than May 1, 2020, and Plaintiff was required to serve a copy of my order upon AmeraPlan. (ECF No. 15, PageID.63.) This did not occur until April 27,

¹ (See also <https://difs.state.mi.us/locators/Search/InsuranceCompanyList#>.)

² (See also <https://www.claimchoice.com/>.)

2020, and it was delivered to the mailbox in Warren, MI on April 28, 2020. (ECF No. 16, PageID.65.)³

Upon consideration, the motion (ECF No. 13) is **GRANTED**. Plaintiff may effectuate service of process upon AmeraPlan by: **(a)** posting a copy of the Summons and Complaint, along with a copy of this Order, at AmeraPlan, Inc.'s address (12200 E. 13 Mile Rd., Ste 120, Warren, MI 48093); **(b)** mailing a copy of the Summons and Complaint, along with a copy of this Order, to the same address and addressed to J. M. Burghardt, via a method that provides confirmation of delivery; and, **(c)** mailing a copy of the Summons and Complaint, along with a copy of this Order, to ClaimChoice, L.L.C.'s address (P.O. Box 362, Royal Oak, MI 48068), addressed to Philip Burghardt, via a method that provides confirmation of delivery. Plaintiff **SHALL** promptly file proof of such service with the Court.

IT IS SO ORDERED.

Dated: May 28, 2020

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

³ (See also